

Rec'd 22 JUL 2004

PATENT COOPERATION TREATY

PCT

INTERNATIONAL PRELIMINARY REPORT ON PATENTABILITY  
(Chapter II of the Patent Cooperation Treaty)

(PCT Article 36 and Rule 70)

REC'D 04 OCT 2004

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|---|--|--|-----------------------|
| Applicant's or agent's file reference<br>PU60045  | FOR FURTHER ACTION   |  | See Form PCT/IPEA/416 |
| International application No.<br>PCT/US04/02833   | International filing date (day/month/year)<br>30 January 2004 (30.01.2004) | Priority date (day/month/year)<br>31 January 2003 (31.01.2003) |                       |
| International Patent Classification (IPC) or national classification and IPC<br>IPC(7): C11D 1/68, 3/20, 13/12, 17/08; A01N 25/28; A61K 9/127 and US Cl.: 510/438, 441; 424/417, 419, 450, 497, 498 |  |  |                       |
| Applicant<br>SMITHKLINE BEECHAM CORPORATION   |  |  |                       |

- This report is the international preliminary examination report, established by this International Preliminary Examining Authority under Article 35 and transmitted to the applicant according to Article 36.
- This REPORT consists of a total of 5 sheets, including this cover sheet.
- This report is also accompanied by ANNEXES, comprising:
  - ☐ (sent to the applicant and to the International Bureau) a total of \_\_\_ sheets, as follows:
    - ☐ sheets of the description, claims and/or drawings which have been amended and are the basis of this report and/or sheets containing rectifications authorized by this Authority (see Rule 70.16 and Section 607 of the Administrative Instructions).
    - ☐ sheets which supersede earlier sheets, but which this Authority considers contain an amendment that goes beyond the disclosure in the international application as filed, as indicated in item 4 of Box No. I and the Supplemental Box.
  - ☐ (sent to the International Bureau only) a total of (indicate type and number of electronic carrier(s))  
\_\_\_\_\_, containing a sequence listing and/or tables related thereto, in computer readable form only, as indicated in the Supplemental Box Relating to Sequence Listing (see Section 802 of the Administrative Instructions).

- This report contains indications relating to the following items:
 

|  |   |
|--|---|
| <input checked="" type="checkbox"/> Box No. I    | Basis of the report   |
| <input type="checkbox"/> Box No. II              | Priority  |
| <input type="checkbox"/> Box No. III             | Non-establishment of opinion with regard to novelty, inventive step and industrial applicability  |
| <input type="checkbox"/> Box No. IV              | Lack of unity of invention  |
| <input checked="" type="checkbox"/> Box No. V    | Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement |
| <input type="checkbox"/> Box No. VI              | Certain documents cited   |
| <input checked="" type="checkbox"/> Box No. VII  | Certain defects in the international application  |
| <input checked="" type="checkbox"/> Box No. VIII | Certain observations on the international application   |

|  |  |
|--|--|
| Date of submission of the demand<br>25 August 2004 (25.08.2004)  | Date of completion of this report<br>16 September 2004 (16.09.2004)                                |
| Name and mailing address of the IPEA/ US<br>Mail Stop PCT, Attn: IPEA/US<br>Commissioner for Patents<br>P.O. Box 1450<br>Alexandria, Virginia 22313-1450<br>Facsimile No. (703) 305-3230 | Authorized officer<br>Brian P Mruk<br>Jean Freccia<br>Paralegal S.<br>Telephone No. (571) 272-1700 |

Form PCT/IPEA/409 (cover sheet)(January 2004)

# INTERNATIONAL PRELIMINARY REPORT ON PATENTABILITY

International application No.

PCT/US04/02833

## Box No. I Basis of the report

1. With regard to the language, this report is based on the international application in the language in which it was filed, unless otherwise indicated under this item.

- ☐ This report is based on translations from the original language into the following language \_\_\_\_\_, which is the language of a translation furnished for the purposes of:
- ☐ international search (under Rules 12.3 and 23.1(b))
  - ☐ publication of the international application (under Rule 12.4)
  - ☐ international preliminary examination (under Rules 55.2 and/or 55.3)

2. With regard to the elements of the international application, this report is based on (replacement sheets which have been furnished to the receiving Office in response to an invitation under Article 14 are referred to in this report as "originally filed" and are not annexed to this report):

- ☒ the international application as originally filed/furnished
- ☒ the description:
  - pages 1-14 \_\_\_\_\_ as originally filed/furnished
  - pages\* NONE \_\_\_\_\_ received by this Authority on \_\_\_\_\_
  - pages\* NONE \_\_\_\_\_ received by this Authority on \_\_\_\_\_
- ☒ the claims:
  - pages 15-17 \_\_\_\_\_ as originally filed/furnished
  - pages\* NONE \_\_\_\_\_ as amended (together with any statement) under Article 19
  - pages\* NONE \_\_\_\_\_ received by this Authority on \_\_\_\_\_
  - pages\* NONE \_\_\_\_\_ received by this Authority on \_\_\_\_\_
- ☒ the drawings:
  - pages 1/6-6/6 \_\_\_\_\_ as originally filed/furnished
  - pages\* NONE \_\_\_\_\_ received by this Authority on \_\_\_\_\_
  - pages\* NONE \_\_\_\_\_ received by this Authority on \_\_\_\_\_

☐ a sequence listing and/or any related table(s) - see Supplemental Box Relating to Sequence Listing.

3. ☐ The amendments have resulted in the cancellation of:

- ☐ the description, pages \_\_\_\_\_
- ☐ the claims, Nos. \_\_\_\_\_
- ☐ the drawings, sheets/figs \_\_\_\_\_
- ☐ the sequence listing (specify): \_\_\_\_\_
- ☐ any table(s) related to the sequence listing (specify): \_\_\_\_\_

4. ☐ This report has been established as if (some of) the amendments annexed to this report and listed below had not been made, since they have been considered to go beyond the disclosure as filed, as indicated in the Supplemental Box (Rule 70.2(c)).

- ☐ the description, pages \_\_\_\_\_
- ☐ the claims, Nos. \_\_\_\_\_
- ☐ the drawings, sheets/figs \_\_\_\_\_
- ☐ the sequence listing (specify): \_\_\_\_\_
- ☐ any table(s) related to the sequence listing (specify): \_\_\_\_\_

\* If item 4 applies, some or all of those sheets may be marked "superseded."  
Form PCT/IPEA/409 (Box No. I) (January 2004)

## INTERNATIONAL PRELIMINARY REPORT ON PATENTABILITY

International application No.  
PCT/US04/02833**Box No. V Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement****1. Statement**

|                               |                    |     |
|-------------------------------|--------------------|-----|
| Novelty (N)                   | Claims <u>1-17</u> | YES |
|                               | Claims <u>NONE</u> | NO  |
| Inventive Step (IS)           | Claims <u>1-17</u> | YES |
|                               | Claims <u>NONE</u> | NO  |
| Industrial Applicability (IA) | Claims <u>1-17</u> | YES |
|                               | Claims <u>NONE</u> | NO  |

**2. Citations and Explanations (Rule 70.7)**

Claims 1-17 meet the criteria set out in PCT Article 33(2)-(3), because the prior art does not teach or fairly suggest a water-dispersible particulate composition that contains 85-99.99% by weight of the specific lipidic carrier required by applicant in the instant claims.

Claims 1-17 meet the criteria set out in PCT Article 33(4), and thus have industrial applicability because the subject matter claimed can be made or used in industry.

----- NEW CITATIONS -----

**INTERNATIONAL PRELIMINARY REPORT ON PATENTABILITY**

International application No.

PCT/US04/02833

**Box No. VII      Certain defects in the international application**

The following defects in the form or contents of the international application have been noted:

Claim 13 is objected to under PCT Rule 66.2(a)(iii) as containing the following defect(s) in the form or contents thereof: The examiner notes that instant claim 13 has two periods at the end of the claim.

**INTERNATIONAL PRELIMINARY REPORT ON PATENTABILITY**

International application No.

PCT/US04/02833

**Box No. VIII Certain observations on the international application**

The following observations on the clarity of the claims, description, and drawings or on the question whether the claims are fully supported by the description, are made:

Claims 6-7 are objected to under PCT Rule 66.2(a)(v) as lacking clarity under PCT Article 6 because claims 6-7 indefinite for the following reason(s): Instant claims 6-7 fail to further limit the invention, since instant claim 1, from which claims 6-7 ultimately depend from, already recites the limitations that are recited in instant claims 6-7.